

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HANTZ SOFTWARE, LLC,

Plaintiff,

v.

SAGE INTACCT, INC.,

Defendant.

Case No. 21-cv-01987-HSG

**ORDER GRANTING MOTION TO
DISMISS AND DENYING AS FUTILE
MOTION FOR LEAVE TO FILE A
SECOND AMENDED COMPLAINT**

Re: Dkt. Nos. 47, 56

Before the Court is Defendant Sage Intacct, Inc.’s motion to dismiss Plaintiff Hantz Software, LLC’s complaint, for which briefing is complete. *See* Dkt. Nos. 47 (“Mot.”), 50 (“Opp.”), 51 (“Reply”). The Court heard oral argument on the motion on October 14, 2021. *See* Dkt. No. 55. For the reasons explained below, the Court GRANTS Defendant’s motion to dismiss.

I. BACKGROUND

On March 22, 2021, Plaintiff Hantz Software, LLC brought this patent infringement action against Defendant Sage Intacct, Inc. *See* Dkt. No. 1. The operative complaint asserts infringement of United States Patent Nos. 8,055,559 (“the ’599 Patent”) and 8,055,560 (“the ’560 Patent”) (collectively, “the Asserted Patents”). Dkt. No. 41 (“Compl.”) ¶ 1. The Asserted Patents relate to computer-implemented accounting methods or systems for accounts receivable and accounts payable within a multi-company system. *See id.*

The operative complaint recites allegations that “[p]rior to the inventions claimed in the [Asserted Patents], conventional approaches to financial accounting methods and solutions for multi-company enterprises were far too time consuming and inefficient, especially where accurate and complete multi-company accounting results were required.” *Id.* ¶ 17. The “operational

inefficiencies and delays” in performing these “conventional” approaches created a “long felt need in the marketplace” for patented, computer-implemented methods that “enhance[d] and streamline[d]” the approaches. *Id.* ¶¶ 18-20. To solve this problem, beginning in 2006, Roy Gelerman reviewed the existing landscape of multi-company accounting platforms, including those offered by Defendant. *Id.* ¶¶ 22, 23, 25, 26. During a February 2008 demonstration of Defendant’s multi-company accounting product, Mr. Gelerman identified the products’ shortcomings in accuracy, speed, and completeness. *Id.* ¶ 27. At this demonstration, Defendant personnel confirmed to Mr. Gelerman “that the [Defendant’s] accounting products did not include features and functions capable of creating an [accounts receivable invoice or accounts payable bill] with detail lines from multiple companies.” *Id.* ¶ 28. Defendant personnel believed “that would be too hard.” *Id.* After his competitive research, Mr. Gelerman confirmed that:

none of the commercially available accounting products included the functions and features that allow a payment for a multi-company AP bill, or AR invoice, to be recorded in the accounting system to reduce the outstanding AP or AR balances of each company and the system automatically adds a pair of multi-company generated “Due To/Due From” lines as “Due To/Due From” entries to balance the money owed between the distinct companies” [sic] and to keep each companies’ balance sheet in balance.

Id. ¶ 30. Plaintiff and Mr. Gelerman then sought patent protection for a solution incorporating Mr. Gelerman’s findings and drafted the patent applications that would issue as the ’559 and ’560 Patents. *Id.* ¶ 32.

The ’559 Patent and the ’560 Patent are related and claim priority to the same parent application. The two patents share near identical titles. *Compare* ’559 Patent (“Multi-Company Business Accounting System And Method For Same Including Account *Receivable*” (emphasis added)) *with* ’560 Patent (“Multi-Company Business Accounting System And Method For Same Including Account *Payable*” (emphasis added)). While the ’559 Patent refers to “invoices” for accounts receivable and the ’560 Patent refers to “vouchers” for accounts payable, both patents share substantially the same written description. The patents’ specifications identify problems in multi-company business accounting systems that record and organize company financial activity. “The existing accounting systems force the accountant to manually enter the inter-company ‘Due

To/Due From' entries to keep each company in balance." *See, e.g.*, '559 Patent, 2:14-16. "This is a huge burden, as nearly 30% of the accounting entries are inter-company balancing entries." *Id.* at 2:16-18. To remedy this gap, the Asserted Patents use "balancing lines" to "automatically add" "input invoice detail lines" and "define an outstanding balance associated with each of the distinct companies." *Id.* at 2:46-50. This claimed invention allows the user to "accurately report the Accounts Receivable for each of the distinct companies," "provid[ing] results that were not possible in conventional methods and systems." *Opp.* at 9.

The '559 Patent and the '560 Patent each have four independent claims: claims 1, 31, 32, and 33. Claim 1 of the '559 Patent recites:

1. A computer implemented method for Account Receivable (AR) accounting for use within a multi-company accounting system that operates on a computer arrangement and which is accessible by one or more persons defining an interface user, the method comprising: at a processor, creating a multi-company invoice with the multi-company accounting system, the interface user entering financial data into the multi-company accounting system via the computer arrangement including: entering an invoice total money amount; and entering input invoice detail lines, each of the input invoice detail lines having an entered account associated with one of a plurality of companies of a multi-company group and an amount of money, at least two of the input invoice detail lines being associated with two distinct companies of the multi-company group, wherein the distinct companies are affiliated with each other and wherein each uses the multi-company accounting system for tracking money flow and balancing balance sheets for their respective accounting operations; at the processor, automatically adding via the multi-company accounting system at least a pair of multi-company generated balancing lines associated with the multi-company invoice for balancing money owed to each of the distinct companies to define an outstanding balance associated with each of the distinct companies, thereby keeping Accounts Receivable for each of the distinct companies in balance; at the processor, entering a payment for paying the multi-company invoice including the interface user entering an amount of the payment into the multi-company accounting system via the computer arrangement; and at the processor, applying the payment to the multi-company invoice to reduce the outstanding balances for the distinct companies including the multi-company accounting system automatically adding at least a pair of multi-company generated Due To/Due From lines as Due To/Due From entries to balance the money owed between the distinct companies, thereby keeping the Accounts Receivable for each of the distinct companies in balance.

'559 Patent, 49:2-43.

1 Claim 31 of the '559 Patent recites:

2 31. A multi-company accounting system for providing a computer
3 implemented method for Account Receivable (AR) accounting and
4 which is accessible by one or more persons defining an interface user,
5 the system comprising:
6 a computer arrangement including at least one processor operative to:
7 create a multi-company invoice within the multi-company accounting
8 system, wherein the interface user enters financial data into the multi-
9 company accounting system via the computer arrangement including:
10 enters an invoice total money amount; and
11 enters input invoice detail lines, each of the input invoice detail lines
12 having an entered account associated with one of a plurality of
13 companies of a multi-company group and an amount of money, at
14 least two of the input invoice detail lines being associated with two
15 distinct companies of the multi-company group, wherein the distinct
16 companies are affiliated with each other and wherein each uses the
17 multi-company accounting system for tracking money flow and
18 balancing balance sheets for their respective accounting operations;
19 automatically add at least a pair of multi-company generated
20 balancing lines associated with the multi-company invoice for
21 balancing money owed to each of the distinct companies to define an
22 outstanding balance associated with each of the distinct companies,
23 thereby keeping Accounts Receivable for each of the distinct
24 companies in balance;
25 enter a payment for paying the multi-company invoice including the
26 interface user entering an amount of the payment into the multi-
27 company accounting system via the computer arrangement; and
28 apply the payment to the multi-company invoice to reduce the
outstanding balances for the distinct companies including the multi-
company accounting system automatically adding at least a pair of
multi-company generated Due To/Due From lines as Due To/Due
From entries to balance the money owed between the distinct
companies, thereby keeping the Accounts Receivable for each of the
distinct companies in balance.

'559 Patent, 54:39-55:12. Claim 32 similarly recites a process for using balancing lines to define
an outstanding balance associated with each distinct company in a multi-company business, but
does so as a computer-implemented method claim. *Id.* at 55:13-56:4. Claim 33 does the same, but
instead as a computer-readable storage medium claim. *Id.* at 56:5-46.

On July 8, 2021, Defendant moved to dismiss the Complaint because the asserted claims
are invalid as a matter of law under Section 101. Defendant seeks a declaration that the patents-in-
suit are invalid.

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II. LEGAL STANDARD

A. Motion to Dismiss

Rule 8(a) requires that a complaint contain “a short and plain statement of the claim showing that the pleader is entitled to relief[.]” Fed. R. Civ. P. 8(a)(2). A defendant may move to dismiss a complaint for failing to state a claim upon which relief can be granted under Rule 12(b)(6). “Dismissal under Rule 12(b)(6) is appropriate only where the complaint lacks a cognizable legal theory or sufficient facts to support a cognizable legal theory.” *Mendiondo v. Centinela Hosp. Med. Ctr.*, 521 F.3d 1097, 1104 (9th Cir. 2008). To survive a Rule 12(b)(6) motion, a plaintiff must plead “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A claim is facially plausible when a plaintiff pleads “factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). In reviewing the plausibility of a complaint, courts “accept factual allegations in the complaint as true and construe the pleadings in the light most favorable to the nonmoving party.” *Manzarek v. St. Paul Fire & Marine Ins. Co.*, 519 F.3d 1025, 1031 (9th Cir. 2008). Nonetheless, courts do not “accept as true allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable inferences.” *In re Gilead Scis. Secs. Litig.*, 536 F.3d 1049, 1055 (9th Cir. 2008).

“[W]hether a claim recites patent eligible subject matter is a question of law which may contain underlying facts.” *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1368 (Fed. Cir. 2018); *Akzo Nobel Coatings, Inc. v. Dow Chem. Co.*, 811 F.3d 1334, 1343 (Fed. Cir. 2016) (“Indefiniteness is a question of law that we review de novo . . . subject to a determination of underlying facts.”). Claim construction is not required prior to a ruling on Defendant’s motion. *See Content Extraction & Transmission LLC v. Wells Fargo Bank*, 776 F.3d 1343, 1349 (Fed. Cir. 2014) (affirming grant of dispositive motion prior to claim construction); *accord Ultramercial, Inc. v. Hulu, LLC*, 772 F.3d 709, 718-20 (Fed. Cir. 2014).

B. Section 101 Patent-Eligible Subject Matter

Section 101 of the Patent Act describes the scope of patentable subject matter as encompassing “any new and useful process, machine, manufacture, or composition of matter, or

any new and useful improvement thereof.” 35 U.S.C. § 101. It is well settled that “laws of nature, natural phenomena, and abstract ideas are not patentable.” *See Alice Corp. Pty. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014). These categories are not patent-eligible because “they are the basic tools of scientific and technological work,” which are “free to all men and reserved exclusively to none.” *Mayo Collaborative Servs. v. Prometheus Labs.*, 566 U.S. 66, 71 (2012) (citations omitted). Allowing patent claims for laws of nature, natural phenomena, and abstract ideas would “tend to impede innovation more than it would tend to promote it,” thereby thwarting the primary object of the patent laws. *Id.* However, the Supreme Court has also recognized the need to “tread carefully in construing this exclusionary principle lest it swallow all of patent law.” *Alice*, 573 U.S. at 217.

The Supreme Court and Federal Circuit have articulated a two-part test for determining whether a claim’s subject matter is patent-eligible. First, the Court “determine[s] whether a claim is ‘directed to’ a patent-ineligible abstract idea.” *Content Extraction*, 776 F.3d at 1346-47 (citation omitted). If so, the Court then “consider[s] the elements of the claim—both individually and as an ordered combination—to assess whether the additional elements transform the nature of the claim into a patent-eligible application of the abstract idea.” *Id.* at 1347. “This is the search for an ‘inventive concept’—something sufficient to ensure that the claim amounts to ‘significantly more’ than the abstract idea itself.” *Id.* (quotation omitted).

In its analysis, the Court “examine[s] earlier cases in which a similar or parallel descriptive nature can be seen—what prior cases were about, and which way they were decided.” *Amdocs (Israel) Ltd. v. Openet Telecom, Inc.*, 841 F.3d 1288, 1294 (Fed. Cir. 2016). The question of eligibility may be determined at the pleadings stage “only when there are no factual allegations that, taken as true, prevent resolving the eligibility question as a matter of law.” *Aatrix Software, Inc. v. Green Shades Software, Inc.*, 882 F.3d 1121, 1125 (Fed. Cir. 2018).

III. ANALYSIS

Defendant moves to dismiss Plaintiff’s claims under Rule 12(b)(6), arguing that the Asserted Patents fail at both steps of the *Alice* inquiry. *See generally* Mot. At step one, Defendant contends that the Asserted Patents are directed to the basic and abstract concept of “using

‘balancing lines’ to reconcile accounts receivable (’559 patent) or accounts payable (’560 patent) across related companies.” *Id.* at 16-17. At step two, Defendant argues that the Asserted Patents fail to recite a saving inventive concept that transforms the claimed method into a patentable application of the abstract idea. *See id.* at 24-29. Plaintiff counters that Defendant oversimplifies the Asserted Patents by analyzing the claims individually and not as a whole. *See Opp.* at 13-22. The Court proceeds under the two-part test outlined in *Alice*.¹

A. *Alice* Step One

The Court finds that the Asserted Patents are directed to an abstract idea: improving financial recordkeeping for multi-company businesses via balancing lines. The claimed method recites steps to gather and enter financial data, and organize that data using mathematical calculations. The Court finds no meaningful distinction between this type of financial economic practice and “the concept of intermediated settlement” held to be abstract in *Alice*, 573 U.S. at 219, or the “basic concept of hedging” held to be abstract in *Bilski v. Kappos*, 561 U.S. 593, 611 (2010).

The Federal Circuit treats the “collecti[on of] information, including when limited to particular content (which does not change its character as information), as within the realm of abstract ideas.” *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1353 (Fed. Cir. 2016). It further “recognize[s] that merely presenting the results of abstract processes of collecting and analyzing information, without more (such as identifying a particular tool for presentation), is abstract as an ancillary part of such collection and analysis.” *Id.* at 1354. The asserted claims are directed precisely to what the Federal Circuit has held to be an abstract idea. “The advance they purport to make is a process of gathering and analyzing [financial transaction] information [], then

¹ Defendant argues that “the difference among the independent claims is formal” and that no “minor distinctions in phrasing or claiming affect patent-eligibility.” Mot. at 30. Defendant contends that Plaintiff’s “independent claims should rise or fall together.” *Id.* While Plaintiff disputes Defendant’s characterization, Plaintiff submits independent claims 1 and 31 of either patent as representative of the claimed method. Opp. at 11. The Court agrees with Defendant that the differences among the independent claims in either Asserted Patent do not affect the patent-eligibility of the claimed invention. It finds independent claims 1 and 31 of the ’559 Patent representative of the claimed invention and concludes that it can properly rely on these claims in assessing the patentee’s invention. *See Intell. Ventures I LLC*, 850 F.3d at 1332 n.7.

1 displaying the results, and not any particular assertedly inventive technology for performing those
 2 functions.” *Id.* “The claims thus fit squarely within the line of precedent that . . . classifies data
 3 collection, organization, and analysis as abstract—even where that produces new data—in the
 4 absence of a claimed technological improvement.” *Software Rts. Archive, LLC v. Facebook, Inc.*,
 5 485 F. Supp. 3d 1096, 1105 (N.D. Cal. 2020) (quotation omitted) (collecting cases).

6 When analyzing whether a claim is directed to an abstract idea, some courts ask whether
 7 the claims’ steps “can be performed in the human mind, or by a human using a pen and paper.”
 8 *OpenTV, Inc. v. Apple, Inc.*, 2015 WL 1535328, at *4 (N.D. Cal. Apr. 6, 2015) (quoting
 9 *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1372 (Fed. Cir. 2011); *Brightedge*
 10 *Techs., Inc. v. Searchmetrics, GmbH*, 304 F. Supp. 3d 859, 866 & n.6 (N.D. Cal. 2018).
 11 Defendant argues that “the claims’ steps of adding balancing lines (and utilizing them to create
 12 related ‘Due To/Due From’ entries) could be equally performed in a pen-and-paper environment
 13 as in an automated one.” Mot. at 19. Plaintiff responds that “humans cannot perform the specific
 14 features of the Claims” “because of the complicated recording of financial activity that must occur
 15 when a partial (i.e., short) payment is received for an AR Invoice, or when an AP check is issued
 16 to pay an AP bill, or when a credit memo is issued.” Opp. at 22. The Court finds Plaintiff’s
 17 argument unpersuasive. Financial transactions like partial payments, use of a check as payment,
 18 or issuance of a credit memo are all types of financial activity that were recorded and analyzed
 19 long before computers existed. With pen and paper, a person could record invoice inter-company
 20 “Due To/Due From” entries onto a balance sheet (step 1), add the entries associated with each
 21 company (step 2), and total the amounts owed among the distinct companies (step 3). The fact
 22 that the claims of the Asserted Patents can be accomplished without modern technology is
 23 indicative that they “are the types of methods that embody the basic tools of scientific and
 24 technological work that are free to all men and reserved exclusively to none, and therefore
 25 comprise a non-patent-eligible abstract idea.” *OpenTV, Inc.*, 2015 WL 1535328, at *4 (quotation
 26 marks omitted).

27 Defendant argues that the claimed invention is directed to an abstract idea because the
 28 Asserted Patents’ “focus . . . is not on [the] improvement in computers as tools, but on certain

independently abstract ideas that use computers as tools.” Mot. at 23. The Court agrees. The “mere automation of manual processes using generic computers does not constitute a patentable improvement in computer technology.” *Credit Acceptance Corp. v. Westlake Servs.*, 859 F.3d 1044, 1055 (Fed. Cir. 2017); *see also Elec. Power Grp.*, 830 F.3d at 1354 (finding claims directed to abstract idea where “focus . . . is not on such an improvement in computers as tools, but on certain independently abstract ideas that use computers as tools”); *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1363 (Fed. Cir. 2015) (“At best, the claims describe the automation of the fundamental economic concept of offer-based price optimization through the use of generic-computer functions.”). Claims 1 and 31 invoke computer technology to store and organize financial transactions across multiple companies in a single business. This is not an improvement to computer technology or computer capabilities. Plaintiff submits that the Asserted Patents purportedly address the problem of “accurately and always reporting the actual current status of each entity’s accounts receivable and accounts payables of a multi-entity organization.” Opp. at 17. But this is not a technical issue. Inaccurate and inefficient accounting systems predate the invention of the computer. The claimed advance does not amount to an improvement in computer technology: the invention neither addresses a problem unique to computer technology nor announces an improvement in computer operation.

For the above reasons, the Court finds that the Asserted Patents are directed to an abstract idea at *Alice*’s first step.

B. Alice Step Two

The Court next considers “whether the claimed elements—‘individually or as an ordered combination’—recite an inventive concept.” *Cellspin Soft, Inc. v. Fitbit, Inc.*, 927 F.3d 1306, 1316 (Fed. Cir. 2019) (quoting *Alice*, 573 U.S. at 217). To constitute an inventive concept, the claim limitations must “involve more than performance of well-understood, routine, [and] conventional activities previously known to the industry.” *Aatrix*, 882 F.3d at 1128 (quotation omitted). “Whether a combination of claim limitations supplies an inventive concept that renders a claim ‘significantly more’ than an abstract idea to which it is directed is a question of law.” *BSG Tech LLC v. Buyseasons, Inc.*, 899 F.3d 1281, 1290 (Fed. Cir. 2018). However, “whether a claim

1 limitation or combination of limitations is well-understood, routine, and conventional is a factual
 2 question,” and the Court must take as true Plaintiff’s factual allegations at this stage. *Id.* Still,
 3 Plaintiff must include “plausible and specific factual allegations that aspects of the claims are
 4 inventive.” *Cellspin*, 927 F.3d at 1317. “Any allegation about inventiveness, wholly divorced
 5 from the claims or the specification,” will not defeat a motion to dismiss. *Id.*

6 Claims 1 and 31 generally claim a method for accomplishing an abstract idea through
 7 conventional computer functions: entering invoice amounts, adding up the invoice amounts, and
 8 displaying outstanding balances. These steps recite “basic functions of a computer” and set forth a
 9 result-focused and functional method. They do not impart an inventive concept. *Alice*, 573 U.S.
 10 at 225.

11 Courts have consistently held that patents that merely set forth a “conventional process for
 12 collecting and analyzing information via a mathematical process” do not impart an inventive
 13 concept. *See, e.g., Brightedge Techs., Inc.*, 304 F. Supp. 3d at 872 (holding that a method for
 14 assessing website entities’ marketing efforts by calculating and displaying specific numerical
 15 scores “d[oes] not impart an inventive concept”); *Intell. Ventures I LLC v. Erie Indem. Co.*, 850
 16 F.3d 1315, 1328 (Fed. Cir. 2017) (concluding that a method to create an index-searchable database
 17 defined by “a plurality of XML tags” failed to impart an inventive concept). Similarly, the
 18 Asserted Patents use computer balancing lines to balance the accounts payable and accounts
 19 receivable of multiple companies in a single business. At its core, the invention is nothing more
 20 than an abstract idea: the collection and organization of financial data. This does not establish
 21 any inventive concept.

22 Plaintiff confuses inventive concept with novelty, which does not necessarily transform an
 23 abstract idea into a patentable one. *See, e.g., SAP Am., Inc. v. InvestPic, LLC*, 898 F.3d 1161,
 24 1163 (Fed. Cir. 2018) (“We may assume that the techniques claimed are groundbreaking,
 25 innovative, or even brilliant, but that is not enough for eligibility.”); *Ultramercial, Inc.*, 772 F.3d
 26 at 715 (“We do not agree . . . that the addition of merely novel or non-routine components to the
 27 claimed idea necessarily turns an abstraction into something concrete.”). The operative complaint
 28 sets out a series of allegations claiming that the Asserted Patents solved accuracy and reliability

1 problems inherent in the existing multi-company accounting platform landscape. However,
 2 “[t]hese benefits amount to nothing more than improved efficiency, not an inventive concept.”
 3 *Coop. Ent., Inc. v. Kollektive Tech., Inc.*, 2021 WL 2531069, at *6 (N.D. Cal. June 21, 2021). “An
 4 improved result, without more stated in the claim, is not enough to confer eligibility to an
 5 otherwise abstract idea.” *Id.* (quotation omitted).

6 Plaintiff attempts to analogize the Asserted Patents to the patent at issue in *DDR Holdings*,
 7 *LLC v. Hotels.com, L.P.* 773 F.3d 1245, 1257 (Fed. Cir. 2014). But *DDR Holdings* is readily
 8 distinguishable. The patent in *DDR Holdings* was directed to the technical problem of how to
 9 retain website visitors who clicked on links to third-party advertisements. *Id.* at 1257. The patent
 10 used an “outsource provider” to incorporate the “look and feel” elements from the host website
 11 and provide visitors with the opportunity to purchase products from the third-party merchant
 12 without actually entering that merchant’s website. *Id.* at 1258. The Federal Circuit found that the
 13 claimed solution was “necessarily rooted in computer technology in order to overcome a problem
 14 specifically arising in the realm of computer networks.” *Id.* at 1257. It held that although “the
 15 claims involve both a computer and the Internet,” “these claims stand apart because they do not
 16 merely recite the performance of some business practice known from the pre-Internet world along
 17 with the requirement to perform it on the Internet.” *Id.*

18 Applying the reasoning in *DDR Holdings*, Plaintiff argues that the Asserted Patents
 19 address the “technical problem” that “conventional accounting systems do not provide a method
 20 for ‘keeping Accounts Payable [or Accounts Receivable] for each of the distinct companies in
 21 balance.’” Opp. at 20. In contrast to *DDR Holdings*, Plaintiff’s “technical problem” is not, in fact,
 22 a technical one. As explained above, the longstanding problem of maintaining “accounts payable
 23 or accounts receivable for each of the distinct companies in balance” can be performed with pen
 24 and paper. Plaintiff’s analogy fails to demonstrate that the Asserted Patents contain an inventive
 25 concept; instead, it highlights the Asserted Patents’ lack of an inventive concept and shows that
 26 the patents simply describe execution of an abstract idea using a computer.

27 Plaintiff further argues that when considered “as an ordered combination,” the claims of
 28 the Asserted Patents contain an inventive concept. In support, it asks the Court to analogize the

claims to *BASCOM Glob. Internet Servs., Inc. v. AT&T Mobility LLC*, 827 F.3d 1341 (Fed. Cir. 2016). However, the comparison of Claims 1 and 31 against the ones at issue in *BASCOM* again underscores the claims’ failure at *Alice*’s second step. A recitation of the facts in *BASCOM* is helpful here. In *BASCOM*, the asserted patent was directed to filtering content on the Internet. 827 F.3d at 1348. The patent claimed “the installation of a filtering tool at a specific location, remote from the end-users, with customizable filtering features specific to each end user.” *Id.* at 1350. The Federal Circuit found that the patent’s claim limitations, when “taken individually, recited generic computer, network and Internet components, none of which is inventive itself.” *Id.* at 1349. However, when viewed as a whole, the patent’s claims “recite[d] a specific, discrete implementation of the abstract idea of filtering content.” *Id.* at 1350. While “[f]iltering content on the Internet was already a known concept, . . . the patent describes how its particular arrangement of elements is a technical improvement over prior art ways of filtering such content.” *Id.* Concluding that the patent had recited a specific technical solution that added to the abstract idea, the *BASCOM* court found an inventive concept “in the ordered combination of [its] claim limitations that transform the abstract idea of filtering content into a particular, practical application of that abstract idea.” *Id.* at 1352.

Plaintiff contends that claims 1 and 31 “recite an inventive and specific combination . . . because they solve the problem of conventional systems that were *unable to accurately and always* reporting [sic] the actual current status of each entity’s accounts receivable and accounts payables in a multi-entity organization accounting system.” Opp. at 21 (emphasis added). Here, the similarities and differences between the Asserted Patents and the patent of issue in *BASCOM* show why the Asserted Patents fail at *Alice* step two. Like the claim limitations of the patent in *BASCOM*, when analyzed individually, the claim limitations of the Asserted Patents “recite generic computer, network and Internet components, none of which is inventive by itself.” 827 F.3d at 1349. But unlike the *BASCOM* patent claims, the claim limitations of the Asserted Patents, when considered in ordered combination, do not identify a “specific application[] or improvement[] to technology.” *Id.* at 1350 (quotation omitted). Claims 1 and 31 merely recite the abstract idea of entering and analyzing financial transactions performed on a set of generic

computer components. *See Enco Sys., Inc. v. DaVincia, LLC*, 845 F. App'x 953, 958 (Fed. Cir. 2021), *cert. denied*, 142 S. Ct. 435 (2021) (“The claims do not incorporate anything more beyond conventional computing hardware and software, which do not transform the subject matter into an eligible application of the abstract idea.”). The fact that a computer can carry out the abstract idea faster and more efficiently than a person can makes no difference. *See id.* at 957 (“[C]laiming the improved speed or efficiency inherent with applying the abstract idea on a computer is insufficient to render the claims patent eligible.” (internal quotation marks omitted)). Such claims simply “do not set forth an inventive concept that would transform their subject matter into something more than the abstract idea.” *Id.* at 958.

Whether considered in isolation or as an ordered combination, neither Claim 1 or Claim 31, or their various recited elements, transforms the core abstract idea into patent-eligible subject matter. There is no inventive concept contained within the claims. The Asserted Patents therefore fail both prongs of the *Alice* test.²

C. Motion for Leave to Amend

On October 22, 2021, Plaintiff filed a motion for leave to file a second amended complaint. Dkt. No. 56. The Court finds that motion appropriate for disposition without oral argument and deems the motion submitted. *See* Civil L.R. 7-1(b).

The Court concludes that no additional allegations can establish that the asserted claims are directed to patent eligible subject matter. The asserted claims set forth a “conventional process for collecting and analyzing information via a mathematical process” and, on their own or as an ordered combination, do not transform the instant invention into patentable subject matter. *See Brightedge Techs., Inc.*, 304 F. Supp. 3d at 872. Moreover, dependent claims 2 and 7 of the ’560

² Plaintiff makes a perfunctory argument that claim construction is necessary before the Court can consider the issue of invalidity. *Opp.* at 24. But Plaintiff has not identified (either in its papers or in response to the Court’s question at oral argument) a single disputed claim term, and has offered no proposed construction that could change the Court’s § 101 analysis. In line with the Federal Circuit and several other courts in this district, the Court finds that this motion thus can be resolved on the pleadings prior to claim construction on this record. *See Content Extraction*, 776 F.3d at 1349 (affirming grant of motion to dismiss prior to claim construction); *see also OpenTV, Inc.*, 2015 WL 1535328, at *2 (collecting cases).

Patent, which Plaintiff raises for the first time in its reply in support of its motion for leave (Dkt. No. 64 at 13), are only variations on the abstract idea of the collection and organization of financial data. *See* '560 Patent, 49:30-37 (claim 2 disclosing that the method occurs before payment is recorded); *id.* at 50:5-37 (claim 7 disclosing that each distinct company in the multi-company accounting platform may be categorized by "segment").

No well-pled factual allegations could possibly identify the claimed activity of electronic financial recordkeeping as anything "more than [the] performance of well-understood, routine, [and] conventional activities previously known to the industry." *Aatrix*, 882 F.3d at 1128 (quotation omitted). Accordingly, the Court DENIES Plaintiff's motion for leave to file a Second Amended Complaint as futile.

IV. CONCLUSION

The Court **GRANTS** Defendant's motion to dismiss without leave to amend and **DENIES** Plaintiff's motion for leave to file a Second Amended Complaint as futile.

The Clerk is directed to enter judgment in accordance with this order in Defendant's favor and close the case.

IT IS SO ORDERED.

Dated: 12/20/2021



HAYWOOD S. GILLIAM, JR.
United States District Judge